

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, et al.,

CASE NO. C70-9213 RSM

Plaintiffs,

SUBPROCEEDING NO. 17-03 RSM

V.

ORDER DENYING MOTIONS IN LIMINE

STATE OF WASHINGTON, et al.,

Defendants.

14 This matter is before the Court on motions in limine filed by the Upper Skagit Indian
15 Tribe and Stillaguamish Tribe of Indians in advance of the March 21, 2022 bench trial in this
16 subproceeding. Dkt. #236¹ (Upper Skagit); Dkt. #237² (Stillaguamish). Stillaguamish has
17 opposed Upper Skagit’s motions in limine. Dkt. #240.³ The Tulalip Tribes have opposed
18 Stillaguamish’s motion to the extent it seeks relief limiting Tulalip’s argument and presentation

¹ Dkt. #22459 in *United States v. Washington*, Case No. C70-9213RSM (the “*Main Case*”). Throughout, the Court provides citations to the docket of the *Main Case* the first time a filing is cited. Thereafter, citations are only to the docket of this subproceeding.

² Dkt. #22460 in the *Main Case*.

³ Dkt. #22465 in the *Main Case*.

1 of evidence at trial. Dkt. #239.⁴ And, finally, the Swinomish Indian Tribal Community has also
 2 opposed the motions. Dkt. #241.⁵

3 After briefing was complete, Upper Skagit filed a notice partially withdrawing its motion.
 4 Dkt. #250.⁶ Upper Skagit withdrew numbers two, three, five, six, and seven of its motions in
 5 limine. The remaining motions in limine seek to exclude testimony by Dr. Friday, incorporating
 6 the arguments of its earlier motion to exclude, and to exclude evidence which was before Judge
 7 Boldt at the time of *Final Decision #1*. Dkt. #236. The Court has previously addressed these
 8 issues in the context of the parties' motions for summary judgment and determined that the issues
 9 are better resolved during trial. Accordingly, and for the same reasons, the Court again denies
 10 the requests without prejudice and will address them during trial, if necessary.

11 Stillaguamish has also partially withdrawn its motions in limine. Dkt. #254.⁷
 12 Stillaguamish's remaining motion in limine requests that the Court prevent Tulalip from offering
 13 evidence or making argument that is inconsistent with the 1984 Stillaguamish-Tulalip Settlement
 14 Agreement. Dkt. #237 at 11–12. Stillaguamish itself notes that motions in limine are generally
 15 superfluous in bench trials, as do the responding tribes. Dkt. #237 at 3; Dkt. #239 at 1–3; Dkt.
 16 #240 at 3. For this reason alone, the motion is appropriately denied without prejudice at this
 17 time. Additionally, Tulalip notes that Stillaguamish's requested approach would be burdensome
 18 and would breed numerous disputes that disrupt the presentation of evidence. Tulalip, in the first
 19 instance, should be responsible for honoring its obligations under the prior settlement agreement.
 20 Accordingly, the Court DENIES Stillaguamish's request without prejudice and will address the
 21 issue during or after trial, if necessary.

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 23 ⁴ Dkt. #22464 in the *Main Case*.
 24 ⁵ Dkt. #22466 in the *Main Case*.
⁶ Dkt. #22483 in the *Main Case*.
⁷ Dkt. #22493 in the *Main Case*.

1 Having considered the motions, the briefing of the parties, and the remainder of the
2 record, the Court finds and ORDERS that Upper Skagit Indian Tribe's Motions in Limine (Dkt.
3 #236) is DENIED without prejudice and that Stillaguamish Tribe of Indians' Motions in Limine
4 (Dkt. #237) is DENIED without prejudice.

5 Dated this 18th day of March, 2022.

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8 RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

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